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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,915	02/05/2001	Robert R. Andrews	08261-017001	6193
26161	7590	01/12/2006		
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER TRAN, BINH Q	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



### DETAILED ACTION

This office action is in response to the amendment filed October 20, 2005.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

*Claims 1-2, 4-7, 9-10, and 72-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hobart et al. (Hobart) (Patent Number 5,335,242) in view of Brauer (Patent Number 5,951,543).*

Regarding claims 1 and 6, Hobart discloses a cardiac laser surgery apparatus and method comprising: a sealed CO2 slab laser (e.g. 10), and a laser delivery system (e.g. See Figs. 1-20); the slab laser (10) including two narrowly spaced electrodes (36, 38) having opposed planar surfaces and a rectangular discharge region defined between the opposed planar surfaces of the two narrowly spaced electrodes (Fig. 2); a controller (e.g. 132, 134, 136) (Fig. 20) to operate the laser to provide pulses of adjustable length shorter than 100ms energy levels of between 8 and 10 Jules per pulse (e.g. See col. 10, lines 15-25) (e.g. See Figs. 14-20; col. 10, lines 40-67; cols. 11-12, lines 1-67; col. 13, lines 1-35). However Hobart fails to disclose that the laser delivery system for delivering laser pulses from said laser to a patient's heart.

Brauer teaches that it is conventional in the art, to use a laser delivery system for delivering laser pulses from said laser to a patient's heart (e.g. See Figs. 5-6; col. 8, lines 65-67; cols. 9-10, lines 1-67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to use a laser delivery system for delivering laser pulses from said laser to a patient's heart of Hobart, as taught by Brauer for the purpose of delivering laser pulses to the CO2 slab laser device; so as to increase the power and efficiency of the laser slab device during laser surgery of the patient's heart.

Regarding claims 2 and 7, Brauer further discloses that the laser delivery system includes a hand piece for delivering pulses to the outside of a patient's heart to provide openings in the patient's heart for myocardial revascularization (e.g. See Figs. 5-6; col. 8, lines 65-67; cols. 9-10, lines 1-67).

Regarding claims 4 and 9, Brauer further discloses that the laser delivery system is synchronized to the heart beat to fire when the heart is electrically insensitive to reduce the chance of arrhythmia (e.g. See Figs. 5-6; col. 10, lines 15-67; col. 11, lines 34-63).

Regarding claims 5 and 10, Brauer further discloses that the laser starts firing on the R wave and stops before the T wave (e.g. See Figs. 5-6; col. 10, lines 15-67; col. 11, lines 1-63).

Regarding claim 72, Brauer further discloses that the laser delivery system further comprises an articulated arm to deliver the laser pulses from said laser to said hand piece.

Regarding claim 73, Hobart further discloses a first and second mirrors (e.g. 26, 28, 30, 32) disposed between said opposed planar surfaces of said two narrowly spaced electrodes (e.g. See Figs. 1-3; col. 6, lines 35-62; col. 8, lines 17-67; cols. 8-9, lines 1-67; col. 10, lines 1-39).

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Regarding claim 74, Hobart further discloses a first adjustable connector affixed to the first mirror to permit angular adjustment of the first mirror with respect to a first axis and a second adjustable connector affixed to the second mirror to permit angular adjustment of the second mirror with respect to a second axis orthogonal to the first axis (e.g. See Figs. 1-3; col. 6, lines 35-62; col. 8, lines 17-67; cols. 8-9, lines 1-67; col. 10, lines 1-39).

***Response to Arguments***

Applicant's arguments filed October 20, 2005 have been fully considered but they are not completely persuasive. Claims 1-2, 4-7, 9-10, and 72-74 are pending.

Applicant's cooperation in explaining the claims subject matter more specific to overcome the claim rejection is also appreciated.

Applicants' s arguments with respect to claims 1-2, 4-7, 9-10, and 72-74 have been considered but are moot in view of the new ground(s) of rejection as discussed above.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Binh Tran whose telephone number is (571) 272-4865. The examiner can normally be reached on Monday-Friday from 8:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reach on (571) 272-4859. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BT  
January 06, 2006



Binh Q. Tran  
Patent Examiner  
Art Unit 3748